THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

Writ Petition No.963 of 2007

Date:18.01.2007

Between

Mohd. Osman.

----------Petitioner

And

The A.P. State Wakf Board and others.

----------Respondents

ORDER:

The petitioner was appointed as a Muthawalli of Dargah at Sultanpur Village, Pargi Mandal, Ranga Reddy District, through proceedings, dated 26.02.2006, and the same was published in the Gazette on 23.03.2006. It is stated that when the second respondent sought to interfere with the functioning of the petitioner, he filed O.S.No.129 of 2006 before the Wakf Tribunal at Hyderabad, for the relief of perpetual injunctionl, and filed I.A.No.740 of 2006 under Order 39 Rules 1 and 2 C.P.C. An order of temporary injunction is said to have been passed on 07.11.2006.

The second respondent submitted a representation to the Wakf Board, stating that he is entitled to be appointed as Muthawalli for the Dargah. Certain information was called for and ultimately, through proceedings, dated 08.01.2007, the Wakf Board appointed one Sri M.A.Gafoor as Enquiry Officer, to enquire into the claims of the petitioner and the second respondent. The grievance of the petitioner is that under the guise of the impending

enquiry, the respondents are insisting on the petitioner to hand over the charge.

Heard Sri Syed Shareef Ahmed, the learned counsel for the petitioner and Sri S.M.Subhan, the learned Standing Counsel for Wakf Board.

It is matter of record that the petitioner has been appointed a s Muthawalli for the Dargah, through proceedings, dated 26.06.2006, and the same was published in the Gazette on 23.03.2006. At the instance of the second respondent, an enquiry is being conducted into the claim of the petitioner. Though the District Minorities Welfare Officer is said to have recommended for an enquiry into the matter and for keeping the appointment of the petitioner under abeyance, the Wakf Board has chosen to direct an enquiry into the matter and did not direct that the order of appointment of the petitioner be kept in abeyance. The result is that there does not exist any impediment for the petitioner to function as Muthawalli, during the pendency of the enquiry.

Therefore, the Writ Petition is disposed of, directing that the petitioner shall not be required to hand over the charge, pending enquiry, as directed in the proceedings, dated 08.01.2007, issued by the Wakf Board. It is, however, made clear that in case, the Wakf Board intends to remove the petitioner from the Office of Muthawalli, it shall be open to it, only after following the procedure prescribed under the Wakf Act. There shall be no order as to costs.

_____

18.01.2007

JSU

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

–

Writ Petition No.963 of 2007

–

–

Date:18.01.2007

JSU